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Letter dated 16 February 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 16 December 2004 (S/2004/1001).

The Counter-Terrorism Committee has received the attached fifth report from Bulgaria submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 14 February 2005 from the Permanent Mission of Bulgaria to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Republic of Bulgaria to the United Nations presents its compliments to the Chairman and has the honour to transmit herewith the fifth report in compliance with paragraph 6 of resolution 1373 (2001) on the steps taken to implement that resolution (see enclosure). The report is submitted in response to the questions and comments of the Counter-Terrorism Committee contained in its letter dated 15 November 2004.

Enclosure

Fifth report of the Republic of Bulgaria to the Counter-Terrorism Committee pursuant to paragraph 6 of UN Security Council resolution 1373 of 28 September 2001

In compliance with paragraph 6 of Resolution 1373 (2001) and in response to the Letter from the Chairman of the Counter Terrorism Committee dated 15 November 2004 (Ref. S/AC.40/2004/MS/OC.458), we submit hereby the answers of the Government of Bulgaria to the additional questions raised in relation with the National Report on the measures taken by the Republic of Bulgaria in implementation of Resolution 1373 (2001).

1. Implementation Measures

1.1 With regard to the elaboration of a system of criteria for identifying and reporting financial operations of non-profit organisations, referred to at page 6 of the first report of the Government of Bulgaria, the CTC would be grateful to receive an update on the progress of this effort, as well as an outline of main provisions.

The potential use of non-profit organisations for dealings in the shadow economy and for financing of terrorism requires continuous efforts by the Financial Intelligence Agency (FIA) to develop and enhance the measures - and to improve and update the criteria - for identifying and reporting of operations which raise suspicions for financing of terrorism in accordance with the Law on Measures against Money Laundering (as last amended, State Gazette No.31/04.04.2003) and the Law on Measures against the Financing of Terrorism (as last amended, State Gazette No.31/04.04.2003).

Measures under the Law on Measures against the Financing of Terrorism (LMFT) include freezing of funds and other financial assets or economic resources, and ban on the access to financial services, funds and other financial assets or economic resources available. In such instances FIA immediately notifies the Minister of Interior and the Minister of Finance. In addition, the Financial Intelligence Agency provides further analysis of information obtained pursuant to the Law on Measures against Money Laundering (LMML) with a view to preventing the financing of terrorism. Where financing of terrorism appears to be the case, FIA has the duty to notify the Minister of Interior accordingly.

The Electronic Reporting System on cash payments exceeding BGN 30 000 in accordance with the obligation of the commercial banks under Article 11a of LMML, introduced in 2004, has improved significantly the Agency's analytical capacity. FIA's information system will be upgraded as well (through EU/PHARE investment project: "Upgrade of the Technological Environment of the Financial Intelligence Agency").

The implementation of these measures is supplemented by the obligation of all persons under Article 3 (2) and Article 3 (3) of LMML (including the non-profit organisations) to report circumstances of suspected financing of terrorism under Article 9 (3) of LMFT; and by the requirement that all subjects under LMML must update and incorporate in their internal rules criteria for identifying the operations, transactions and customers, suspected in financing of terrorism - Article 9 (4).

The internal rules for the non-profit organisations, developed by experts of FIA, are based on most detailed and concrete criteria consistent with the latest standards in the suppression of the financing of terrorism. They include: the eight special recommendations of the Financial Action Task Force; the recommendations of the EU experts in the framework of the "Twinning Project", which ended in 2004 (EU/PHARE Project "Suppression of Money-Laundering"); the expertise of competent authorities of other states (USA, for instance). The latest modifications in the system of internal rules were introduced in early 2004 and they expanded the range and scope of suspicious operations and transactions, taking into account eventual misuse of for-profit activities by non-profit organisations. The latter include: unreasonable transactions; excessive numbers of financial transfers; transfers between bank accounts of related persons inconsistent with the usual fund-raising operations of non-profit organisations.

In order to raise awareness of the inherent risks in the operation of non-profit organizations and to prevent their misuse as sources for the financing of terrorism, all subjects under LMML/LMFT - including the non-profit organisations - will be involved in a training exercise under the EU/PHARE Twinning Light Programme, starting in 2005. This programme will help to establish a coherent permanent system for the continuous and constant improvement of the training scheme, developed and implemented by FIA.

The Financial Intelligence Agency, jointly with the National Bank of Bulgaria, performs checks on the basis of: lists under UNSC resolutions, approved by the UN Security Council; EU decisions and instruments; acts and requests from the competent authorities of other states. These checks are carried out with emphasis on the enhanced coordination of efforts on regional and international level in order to strengthen the global response to terrorism (§ 4, Resolution 1373).

In all, by the end of 2004 FIA has performed inspections on 630 individuals and 420 organisations, suspected in financing of terrorism. Some of those actions have been taken in the framework of the cooperation with the US Embassy in Bulgaria (55 lists checked by the end of 2004). The result is one positive finding – one account of a listed company in a Bulgarian bank.

*1.2 **The CTC would appreciate knowing whether the draft Law on Forfeiture of Criminal Assets, approved by the Council of Ministers in February 2004, has become law.***

The Bill passed second reading in the Parliamentary Legal Affairs Committee on 13 January 2005 and is scheduled for final debate and adoption in the Plenary of the Parliament.

*1.3 **The Committee would be pleased further to receive additional information about the enactment of the Code of Administrative Procedure which, according to Bulgaria's latest report, "will include relevant legislative proposals in connection with the liability of legal entities for crimes, including those related to terrorism."***

In accordance with the legislative programme of the government, the draft Code of Administrative Procedure was approved by the Council of Ministers on 20 January 2005 and was introduced in the Bulgarian Parliament for debate and adoption.

After the adoption of the Code of Administrative Procedure, the existing Administrative Offences and Punishments Act will be amended as well in order to incorporate appropriate substantive and procedural provisions relating to the liability of legal entities for criminal offences committed in pursue of profit, including such offences as *"Terrorism and Financing of Terrorism"* under Article 108a, and *"Establishment or Leadership of, or Participation in, Organised Terrorist Group"* under Article 109 of the Criminal Code.

1.4 Regarding the amendment of the law on Maritime Space, Inland Waterways and Ports of the Republic of Bulgaria, the CTC would appreciate receiving a progress report on the draft regulation to implement the International Convention for the Safety of Life at Sea (SOLAS) and the International Ship and Port Facility Security Code (ISPS).

The Maritime Territory, Inland Waterways and Ports Act of the Republic of Bulgaria has been amended by the addition of new Article 60a, whereby the provisions of SOLAS Chapter XI-2 relating to the security of ships and port facilities have been incorporated.

The Minister of Transport and Communications, the Minister of Interior, and the Minister of Finance have issued joint Regulation No. 53/2004 implementing the ISPS Code. The Regulation reflects fully the Code's provisions and establishes the mechanism of interaction between the Ministry of Transport and Communications, the Ministry of Interior, and the Ministry of Finance. The following has been achieved so far:

- Port Facility Security Assessments have been made;
- Port Facility Security Plans have been developed;
- Port Facility Security Officers have been introduced and appointed by the port operators;
- Various arrangements for training of Bulgarian Port Facility Security Officers under RSO programmes (provided by Recognised Security Organisations, such as INSB and Germanische Lloyd) have been carefully examined;
- Relevant information concerning the certified ports in Bulgaria has been delivered to IMO and ESPO (European Sea Ports Organisation);
- The Security Officers of shipping companies have gone through appropriate training, and the ship crews have been briefed on their responsibilities under effective Ship Security Plans.
- All ships have been equipped with the relevant devices in accordance with the requirements. Appropriate certificates have been issued and approved Ship Security Plans are in operation.
- The Executive Agency "Maritime Administration" has designated liaison officers and has notified the shipping companies and IMO accordingly. This agency maintains a 24-hour on-line line communication service for information and specific signals from ships.

1.5 The CTC would like to receive information concerning the results of the audits that ICAO has performed on the airports of Varna and Bourgas during the course of 2004.

There were no ICAO audits of Varna and Bourgas airports in 2004.

Sofia, 11 February 2005